



USDA Foreign Agricultural Service

GAIN Report

Global Agriculture Information Network

Template Version 2.09

Voluntary Report - Public distribution

Date: 12/1/2008

GAIN Report Number: PL8032

Poland

Biotechnology

Poland's Framework Position on GMO's -- They say no, again.

2008

Approved by:

Eric Wenberg

U.S. Embassy

Prepared by:

Natalia Koniuszewska & Jolanta Figurska

Report Highlights:

Poland's Council of Ministers adopted a new position on GMO's November 18, unofficially translated in this report. The text tries to fit existing EU regulations so the Ministry of Environment can continue its anti-farm and anti-GMO message. FAS Warsaw believes the law does not comply with EU regulations and is evidence the EU will not keep its WTO trade commitments. If the EU derogates testing to member states and then they refuse to let scientists conduct tests how can that be legal? The Minister of Environment regularly travels among member states to try to get others to adopt anti-GM positions and spends EU money in its anti-GM campaigns. Scientists have spoken publicly they will be unable to do research, Polish consumers eat imported GMO's, and farmers suffer from record high input prices.

Includes PSD Changes: No

Includes Trade Matrix: No

Quarterly Report

Warsaw [PL1]

[PL]

On November 18, the Polish Council of Ministers, including the Ministries of Environment, Agriculture, Economy, and others, adopted a new decision setting Polish policy regarding genetically modified organisms ("GMOs"). The decision allows research on GMOs in "closed systems," but reasserts Poland's intention to remain "a country free of GMOs." The decision also declares that in voting in EU fora, in every case the Polish government will vote against allowing planting of GMOs as food, animal feed or other products, and that the Polish government will also vote in EU against introduction of new GMO types. While the decision notes, "the Government of Poland declares it will comply with the requirements of EU law in this area," it also states that Poland will seek to persuade other members to change EU law to prevent spread of GMOs. Sources report that nothing could be done to extract any concessions or reasonable attitude from the Ministry of Environment. Contacts reported that they spent time even fighting for provisions to allow laboratory experimentation. Poland is already actively involved in trying to turn EU law backwards on GMO policy; Environment Minister Nowicki makes it part of his talking points with his EU colleagues. The new provision that Poland will abide by EU law is a concession that means if the Union pressures Poland through court cases, then internal law will be changed.

The Polish scientific community had a strong reaction to the proposed regulations. Scientists have commented that although officially the current Government supports biotechnology research, in reality research is being restricted through detailed permit obtaining procedure. Scientists comment that with lack of research on varieties suitable for Poland's climate food prices are bound to go up, as Poland will have to rely on research being carried out in different climatic conditions such as Spain. Prof. Stefan Malepszy, Warsaw University of Life Sciences – SGGW in the Polish Times newspaper on November 26, commented that the proposed procedure is so complicated that in most cases no scientific institution will be able to follow its requirements. He also said that in other countries e.g. Spain bureaucracy does not limit scientific research. Representative of the Polish Association of Corn Producers, Zbigniew Kurczyk commented that "Without Polish GM corn varieties, we will be forced to pay higher prices for pork and poultry, as corn is the base for feed of these animals. Polish farmers will be forced to rely on Spanish corn varieties, which were prepared for different climate conditions and would not produce similarly high yields in Poland."

FAS Warsaw believes that such scientific restrictions are meaningless in the open borders of the United Europe. Scientific research will be performed in Germany or the Czech Republic where such things are possible. SGGW honored Professor Hilary Koprowski November 28, for lifetime achievement in microbiology, including using genetically modified plants to develop vaccines. Dr. Koprowski spent his whole career working in the United States where he was free to do his research and have his intellectual property protected. He is author or co-author of over 875 scientific papers and is co-editor of several journals. He serves as a consultant to the World Health Organization and the Pan American Health Organization. Young Polish scientists today, working with plants might also consider living in other countries to conduct their research.

Unofficial translation begins.

FRAMEWORK POSITION OF THE GOVERNMENT OF POLAND
REGARDING GENETICALLY MODIFIED ORGANISMS (GMO)
Adopted November 18, 2008

Introduction

Community regulations on GMO currently in force govern the following issues:

1. the contained use of genetically modified micro-organisms - Directive 90/219 and its amending directive 98/81 - the Minister of environment is the authority responsible for these issues in Poland under the Law on genetically modified organisms of June 22, 2001 (Official Journal of 2007 No. 36, item. 233);
2. the deliberate release of genetically modified organisms into the environment for experimental purposes, and marketing of genetically modified products - on the basis of a directive 2001/18/WE - the Minister of environment is the authority responsible for these issues in Poland under the Law on genetically modified organisms of June 22, 2001 (Official Journal of 2007 No. 36, item. 233);
3. the marketing of genetically modified food and feed pursuant to the provisions of Regulation 1829/2003 of the European Parliament and the Council – Chief Sanitary Inspector is the competent authority for genetically modified food and genetically modified organisms intended for use as food in the range specified in Regulation No 1829/2003, Regulation No 1830/2003 and Regulation No 1946/2003 (Article 93 paragraph. 1 of the Law on food safety and nutrition of August 25, 2006 (Official Journal of 2006, No. 171, item 1225). While in matters relating to genetically modified organisms used in feed and genetically modified feed, the minister of agriculture has the powers and performs tasks and duties of the competent national authority of the Member State of the European Union, the competent national authority, the competent authority in the Member State of the European Union, specified in Regulation No 1829/2003 and Regulation No 1830/2003 (Article 8, par. 1 of the Feed Law of July 22, 2006) (Official Journal of 2006 r. No 144, Sec. 1045 and of 2008 No 144, Sec. 899);
4. registration of crop varieties, including genetically modified varieties - in accordance with the provisions of the Seed Law of June 26, 2003 (Official Journal of 2007 No. 41, Sec. 271, No. 80, Sec. 541 and No. 191, Sec. 1362) and the provisions of the Directive 2002/53/WE the Minister of agriculture is responsible for these issues.

At the level of the European Union, there are still no binding regulations on the cultivation of genetically modified plants and coexistence between the three forms of agriculture – conventional, organic and biotech agriculture. There are only partial regulations in the form of “Recommendations of the European Commission of July 23, 2003, on the guidelines for the development of national strategies and best practices to ensure the co-existence of genetically modified crops with conventional and organic farming (No. 2003/556/EC)”.

THIS DOCUMENT CONTAINS THE POSITION OF THE GOVERNMENT OF POLAND ON THE FOLLOWING:

- I. THE CONTAINED USE OF GENETICALLY MODIFIED ORGANISMS
- II. THE DELIBERATE RELEASE OF GENETICALLY MODIFIED ORGANISMS INTO THE ENVIRONMENT FOR EXPERIMENTAL PURPOSES.
- III. THE MARKETING OF GM PRODUCTS
- IV. THE CULTIVATION OF GM CROPS.

I. THE CONTAINED USE OF GENETICALLY MODIFIED ORGANISMS

Under the provisions of Directive 90/219/EEC and amending Directive 98/81/EC, closed use is the act of genetic modification of organisms or cultivation of genetically modified organisms, and the operation of storage, transport within the plant of genetic engineering, destruction, removal or use of these organisms in a different way, when protections are applied, particularly in the form of a closed installation, closed rooms or other physical barriers in order to effectively reduce the contact of organisms with human beings and the environment.

The scientific work carried out in closed systems is designed to obtain organisms, which can be used, among other things, as pharmaceuticals. Projects related to the development of new drugs such as melanoma vaccines, insulin, vaccines against hepatitis, or related to a repair of mechanisms of the nervous system in mammals are accomplished in the closed systems. The results of the work of contained use should be used in the future for xenotransplantation. Closed use also refers to the work on human genetic diseases. Taking into account the public's expectations regarding the development of modern science and the new technologies, which will enable the use of more efficient action in medicine and pharmacy, and the production of organisms, which will be used in industrial processes to protect the environment (biofuels, bioplastics, bioremediation of soils), work in this regard, according to the Government of Poland, should be continued.

The position of the Government of the Republic of Poland:

The Government of Poland supports the work of GMO contained use in accordance with the conditions laid down by law.

II. THE DELIBERATE RELEASE OF GENETICALLY MODIFIED ORGANISMS INTO THE ENVIRONMENT FOR EXPERIMENTAL PURPOSES

In accordance with the provisions of Directive 2001/18/EC - the deliberate release of GMO into the environment is the act of intentional introduction of genetically modified organisms, or combinations thereof, into the environment for experimental purposes, without the application of protections, which can limit their contact with humans and the environment. These activities are designed to determine the impact of genetically modified organisms on human health and the environment and precede the introduction of GMO on the market as products or in products. Only these actions bring the results, which can be used as basis for the judgment of the safety or risk from the genetically modified organism. Only on this basis and in accordance with the provisions of Directive 2001/18/EC and the Directive 2002/53/EC, national authorities may seek on introduction of full ban or limited use of a specific genetically modified organism in its territory.

According to the Directive 2001/18/EC, the release of genetically modified organisms into the environment is associated with a higher risk than the work of the contained use (especially in terms of the impact of the specific genetically modified organism on the environment, as well as it can meet the local community protest). Prior to a decision, the Minister of Environment always consults with the local authorities, informing them of his intention to carry out field tests in areas managed by them and gives them time to inform the local community and to express any comments. At the same time, according to the applicable rules on testing of genetically modified organisms in environmental conditions, the GMO Commission which is an advisory body to the Minister of Environment always prepares its opinion about the project. The Minister of Environment issues the decision, after a detailed assessment of risk to human health and the environment of GMO, which is the subject of experimental release. Information about the field experiments with genetically modified organisms, along with a summary describing the experiment is sent to the European Commission and to each Member State of the European Union. During a process of preparing a decision on deliberate release into the environment scientific criteria for assessing the risk to human health and the environment of genetically modified organism, which is the subject of the intended release, are particularly considered. The provisions of the Act on genetically modified organisms of June 22, 2001 and regulations connected with this Act relate to both the scientific criteria and procedural issues.

According to the Directive 2001/18/EC, field experiments should entail:

- testing in the field of genetically modified crops in order to obtain the necessary results, if their registration in national catalogs is planned,
- results for agro-environmental impact of genetically modified organisms on the environment in climatic conditions of the country,
- national research on various plants, because only the results obtained during the national tests, which show the danger of an organism, are considered by the competent authorities of the European Union when a country seeks to introduce the temporary or total prohibition of the use and cultivation of genetically modified plants in this country,
- to examine the real possibilities of limiting the use of plant protection products in case of research using transgenic plants or increase the effectiveness of the assimilation of nutrients by plants, for example in the study of genetically modified micro-organisms.

The position of the Government of the Republic of Poland:

The Government of Poland is seeking that Poland acquire the status of a "GMO-free country", therefore, pronounces against a deliberate release of GMO into the environment for experimental purposes on the territory of the Republic of Poland. Bearing in mind the obligations resulting from Poland's membership in the Community, the Government of Poland declares to observe the existing law of the European Union in terms of the deliberate release of genetically modified organisms into the environment for experimental purposes. The Government of Poland considers it reasonable to exercise particularly the experiments aimed at obtaining results on agro-environmental impact of genetically modified organisms on the environment in climatic conditions of Poland, conducted by the research institutes and higher schools.

III. INTRODUCTION OF GMO INTO THE MARKET AS PRODUCTS OR IN PRODUCTS

In respect of the Community regulations concerning the marketing of GMO as products or in products, there are two parallel ways of its authorization. One is set for genetically modified products, which may be used in processing and manufacturing (Directive 2001/18/EC), while the second one is for the marketing of genetically modified food and feed (Regulation 1829/2003/EC).

- Products marketed on the basis of Directive 2001/18/EC

According to the definition contained in Directive 2001/18/EC, introduction of GMO as products or in products to the market means to provide this product or make it available, whether free or not, to third parties.

Regulations regarding the human health and the environment risk assessment represent a big part of the Directive 2001/18/EC. Each product, which is intended to be placed on the market – which means it may occur in an open environment (such as seed) - requires an assessment of its risk to human health and the environment, consistent with the Directive 2001/18/EC, although the request for its introduction to the market can be made on the basis of other regulations than the Directive.

According to the Polish regulations, the Minister of Environment is responsible for the introduction of GM products to the market, based on Directive 2001/18/EC. Products approved for sale on this basis can be operated and used in all industries, excluding its use as food or feed. The EU legislation defining the requirements for GM products are considered the most rigorous in the world. It makes very high demands for these products. The requirement to ensure their proper labeling gives consumers the possibility of a conscious choice between these products and their conventional equivalents.

According to the Treaty principle of free movement of goods, the introduction of GM product in the territory of one of the EU Member States also means the possibility of this product to be in the Polish market. In the Community, there are GM products approved for sale by the decisions of the competent authorities of Member States issued in accordance with the procedure laid down in Directive 2001/18.

Decisions to market GMO as product or in products always relate to the marketing of genetically modified living organism, which can be further processed and used in various industries.

With respect to the marketing of GM products, the Government of Poland so far considered each product individually. In September 2004, the European Council of Ministers adopted the document, which requires a separate examination of each genetically modified product marketed in the European Community, done by authorized Polish institutions.

The approval process of sale of GM products such as genetically modified cotton, cut flowers, or rice in the territory of the Community is done on the basis of Directive 2001/18/EC. Also other products like corn, rape, sugar beet, starch potato are allowed for sale. In case of the first group of products, their cultivation is impossible in Poland and so, it is impossible to cause the damage to the environment, but these products can be used in the economy. The second group of products is important for agriculture, industry related to agriculture, as well as for other sectors (such as the fuel, starch, textile industries), but these products may also interfere with the functioning of ecosystems.

Products marketed under the Regulation 1829/2003/EC (GM food and feed)

GM food and feed containing, consisting of or produced from GMO are introduced into the market according to the procedure laid down in Regulation 1829/2003. Chief Sanitary Inspectorate is the Polish authority competent to receive applications for introduction into the market of GM foods of plant origin, the Minister of Agriculture is a competent body in Poland to receive applications for marketing of GM feed, while the decisions on marketing of the above mentioned food and feed are taken by the institutions of the European Union.

The EU legislation defining the requirements for GM food and GM feed are considered the most rigorous in the world. It makes very high demands for these products. The requirement to ensure the proper labeling of GM food and feed gives consumers the possibility of a conscious choice between GM food and feed and their conventional equivalents. The laws impose on all EU Member States an obligation to supervise the observance of legislation in this area. According to the Treaty principle of free movement of goods, Poland cannot prohibit the sale of GM food and feed in its territory, if they have been placed on the EU market in accordance with the decision of the European Commission. Today there are around 25 types of modifications in the Register of GM Food and Feed. This means that even if Poland pronounced against the marketing of new GMO intended for food or feed, according to the principle of free movement of goods, GMO which are in the Registry could be still available on the Polish market.

The position of the Government of Poland:

Participating in the voting on the forum of the European Union institutions, the Government of Poland will be expressing its negative position on how to authorize the introduction into the market of GMO as food, feed or other products. At the same time, bearing in mind the obligations resulting from Poland's membership in the Community, the Government of Poland declares to respect the current European Union law in this area.

V. CULTIVATION OF GM PLANTS SPECIES

According to the Community legislation, the cultivation of genetically modified crops is possible after its introduction to the market for cultivation - in accordance with a decision issued based on the Directive 2001/18/EC or Regulation 1829/2003/EC, and its registration according to the provisions of the Directive 2002/53/EC and inscription in the national or Common EU Catalogue of Varieties of Agricultural Plant Species. In conducting the analysis of the potential risks and benefits of the use of genetic modifications of plants for cultivation, the following should be taken into account:

- the biology of specific species (such as uncontrolled crossing with non-modified crops and wild species of plants),
- type of genetic modification,
- the usefulness of specific modification in Poland and possibility of its replace by the use of plant protection products or proper farming.

A very important aspect, which should absolutely be taken into consideration when examining the effects resulting from the introduction of this technology, is market accessibility for sale of such products. At present, only MON 810 maize resistant to European corn borer has been approved for cultivation in the European Union. However, under the Regulation 1829/2003/EC, the applications for authorization to cultivate the following products have been already submitted:

- 1507 x NK603 maize (resistant to Lepidoptera pests and herbicide (glyphosate)),
- NK603 maize (resistant to the herbicide (glyphosate))
- 59122 maize (resistant to Coleoptera pests and to herbicide (glufosinate ammonium))
- 40-3-2 soybean (resistant to herbicide (glufosinate ammonium)),
- NK603 x MON810 maize (resistant to Lepidoptera pests and herbicide (glyphosate))
- 1507 x 59122 maize (resistant to pests Lepidoptera, Coleoptera and herbicide (glufosinate ammonium))
- 59122 x 1507 x NK603 maize (resistant to Lepidoptera and Coleoptera pests and glyphosate),
- T25 maize (resistant to herbicide (glufosinate ammonium)).

The position of the Government of the Republic of Poland:

The Government of Poland pronounces against the introduction of genetically modified plants into the market with the possibility of cultivation. By participating in the authorization procedure and the voting on the forum of the European Union, the Government of Poland will be expressing a negative opinion by voting against the introduction of new genetically modified plants into the market with the possibility of cultivation.

At the same time, bearing in mind the obligations resulting from Poland's membership in the Community – the Government of Poland declares its compliance with the applicable in this regard EU law.

Summary

Poland is unique in terms of richness of biodiversity. The introduction of GMO into the environment may cause a serious disruption in its functioning. In connection with this, the proposed Framework Position is as follows:

The Government of Poland allows the contained use of GMO in accordance with the conditions laid down by law.

The Government of Poland seeks that Poland acquired the status of "GMO-free country", therefore, pronounces against a deliberate release of GMO into the environment for experimental purposes on the territory of the Republic of Poland. Bearing in mind the obligations resulting from Poland's membership in the Community, the Government of Poland declares to observe the existing EU law in terms of the deliberate release of genetically modified organisms into the environment for experimental purposes. The Government of

Poland considers reasonable the performance of experiments which particularly aim at obtaining results on agro-environmental impact of genetically modified organisms on the environment in climatic conditions of Poland, conducted by the research institutes and higher schools.

The Government of Poland pronounces against the introduction of GMO as products or in products into the market. By participating in the authorization procedure and voting on the forum of the European Union - the Government will express its negative position. At the same time, bearing in mind the obligations resulting from Poland's membership in the Community, the Government of Poland declares to observe the existing law of the European Union concerning the marketing of GMO as products or in products.

The Government of Poland pronounces against the introduction of genetically modified plants into the market with the possibility of cultivation. By participating in the authorization procedure and voting on the forum of the European Union - the Government will express its negative position by voting against the introduction of new genetically modified plants into the market with the possibility of cultivation.

At the same time, bearing in mind the obligations resulting from Poland's membership in the Community, the Government of Poland declares to observe the existing law of the European Union in this regard.

Taking into account, the need for implementation of the obligations arising from Community regulations on genetically modified organisms, on one hand, and, given the distinct reluctance of the public against genetically modified organisms, on the other hand, the Government of Poland will try to gain the favor of other EU Member States to change the law of the European Union in this area.

At the same time, in order to apply the conditions set out in this position, the Government of Poland declares to make changes in the legislation in force, as well as in future provisions, in accessible limits of the law, which will provide the possibility to limit the use of genetically modified organisms in the territory of the Republic of Poland.

Also, during the authorization procedure for introduction of new genetically modified products into the EU market, Poland will be always voting against the marketing of such products.

The position of the Government of Poland on genetically modified organisms has been developed on the basis of contributions made by various ministries in the field corresponding to their authorities:

1. THE CONTAINED USE OF GMO - MINISTRY OF ENVIRONMENT
2. THE DELIBERATE RELEASE OF GMO INTO THE ENVIRONMENT FOR EXPERIMENTAL PURPOSES - MINISTRY OF ENVIRONMENT
3. INTRODUCTION OF GMO PRODUCTS INTO THE MARKET - MINISTRY OF ENVIRONMENT, MINISTRY OF AGRICULTURE AND RURAL DEVELOPMENT, CHIEF SANITARY INSPECTORATE
4. CULTIVATION OF GM PLANTS - MINISTRY OF AGRICULTURE AND RURAL DEVELOPMENT.

Footnoted references:

Directive 90/219/EEC of April 23, 1990 on the contained use of genetically modified organisms (OJ. L 117, 08.05.1990),

Directive 98/81/EC of October 26, 1998 amending Directive 90/219/EEC on the contained use of genetically modified organisms (OJ. L 330, 05.12.1998),

Directive 2001/18/EC of March 12, 2001 on the deliberate release into the environment of genetically modified organisms and the repeal of Directive 90/220/EEC (OJ. L 106, 17.04.2001),

Regulation (EC) No 1829/2003 of the European Parliament and the Council of September 22, 2003 on genetically modified food and feed (OJ. L 268, 18.10.2003)

Regulation (EC) No 1830/2003 of the European Parliament and the Council of September 22, 2003 concerning the traceability and labeling of genetically modified organisms and amending Directive 2001/18/EC (OJ. L 268, 18.10.2003, p. 24; EU OJ. Polish special edition, Chap. 13, vol 32, p. 455),

Regulation (EC) No 1946/2003 of the European Parliament and the Council of July 15, 2003 on transboundary movements of genetically modified organisms (OJ. L 287, 5.11.2003, p. 1),

Directive 2002/53/EC of June 13, 2002 on the Common EU Catalogue of Varieties of Agricultural Plant Species (OJ. L 193, 20.07.2002)

Decree of the Minister of Environment of July 8, 2002 on determining how to conduct a detailed assessment of risks to human health and the environment in connection with activities involving the contained use of GMO, deliberate release of GMO into the environment, including the introduction of the GMO products into the market and the requirements for the file containing results of such evaluation (Official Journal No. 107, sec.944);

Decree of the Minister of Environment of June 6, 2002 on the application forms for approvals and permits for activities in the field of genetically modified organisms (Official Journal No. 87, sec. 797).